

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Expanding the Economic and Innovation)	Docket No. 12-268
Opportunities of Spectrum through Incentive))	
Auctions)	

To: The Commission (Electronically Filed)

REPLY COMMENTS OF SPECTRUMEVOLUTION, INC.

1. SpectrumEvolution, Inc. ("SEI") filed initial comments in this proceeding, highlighting the likely disastrous fate of low power television ("LPTV") stations if the Commission does not focus more attention on preserving LPTV in this proceeding, as well as the slowing of broadband deployment resulting from the Commission's reluctance to allow television broadcasters to implement advanced technologies and develop hybrid broadcast/broadband services. Nothing in the initial comments in this proceeding has undermined the points raised by SEI.

2. Concentration of Control over Distribution. Many organizations, including public interest groups, have become so greatly enamored of the opportunities offered by the Internet for the distribution of content that they have lost sight of the importance of preserving other avenues for the dissemination of ideas and public discourse. It is true that access to distribution over the Internet is in some respects easier than access than to distribution by broadcasting, because unlike broadcasting, no governmental license is needed to send content through the Internet, and the supply of channels is less constrained – at least for now. The problem that these commenters fail to recognize is that if the opportunity for diverse of points of view is limited to creating *content* and does not include any control of *distribution* channels, diversity will be seriously

threatened in the future. Diverse ownership of the pipelines as well as the content they carry is critical to preserving diversity of distribution of ideas. History has taught that gateways -- both print and electronic -- held in concentrated hands easily become bottlenecks.

3. If ownership of the pipelines becomes highly concentrated, which is the likely outcome if ownership is awarded to those who can afford to bid the most in an auction, diversity of ideas will ultimately shrink. The steadfast refusal of major cable television operators to carry LPTV stations except when they are major network affiliates (and sometimes not even then) -- a refusal that has not been softened by the end of the cable channel shortage brought about by digital technology -- and the fierce resistance of broadband providers to net neutrality regulations are evidence of what is only the tip of the iceberg. Ownership of distribution and content is becoming intertwined, Comcast's acquisition of NBC Universal being a significant example of a trend that is likely to continue. There is clear evidence that the major pipeline owners want control of both distribution and content, an eventuality that the Commission's proposed regulatory track would help to accelerate.

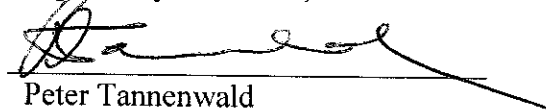
4. Destruction and Confiscation of Small Business and Minority/Female Assets. On the economic side, as SEI pointed out in its initial comments, the Commission's intent to ignore LPTV in the repacking process will be an unprecedented blow to small businesses and minority and female owners. It is also unprecedented in the annals of spectrum regulation for a service to be wiped out without providing a meaningful and realistic place for its licensees to migrate.

5. Picking Winners and Losers for Spectrum Flexibility. No one has demonstrated why broadcasters should be the only spectrum users who are denied spectrum flexibility and the ability to improve the efficiency and effectiveness of their services. They could do so much to serve markets of all sizes, including rural areas where the large carriers will build broadband

networks far in the future, if ever. Broadcasters can implement hybrid broadcast/broadband services with private capital, no government subsidy, and no need to tax the public with Universal Service Fund contributions that now approximate three times the level of retail sales taxes. The biggest obstacles are the shackles the FCC has put on broadcasters and the FCC's inconsistent treatment of different services in an era when services are supposedly blending together into multi-faceted flexible offerings.

6. Conclusion. The Commission's acceptance of the "spectrum crunch" cry of large carriers, who have knowingly caused that crunch by promoting devices that gobble spectrum regardless of efficiency, and who have no incentive to conserve spectrum resources when they are about to be allowed to buy and own more of those resources, fails to comprehend long-term harmful consequences, including discouraging diversity and innovation of many kinds. What small businesses or new entrants would be foolish enough to invest in spectrum technology in the future when their fate would be governed by an agency that seems willing to sweep them aside, take the resources they have worked so hard to develop, and sell those resources to the wealthiest available buyers, with not a nod or nickel to those from whom the resources were taken?

Respectfully submitted,



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